Supreme Court, U.S.
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No. 84-1995

IN THE

Supreme Court of the United States

OCTOBER TERM, 1984

SMITH INTERNATIONAL, INC.,

Petitioner,

v.

HUGHES TOOL COMPANY,

Respondent.

PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT

PETITIONER'S REPLY BRIEF

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PETITIONER'S REPLY BRIEF

Because the Brief in Opposition presents only the same weary arguments on which Hughes has relied throughout the later stages of this litigation, there is nothing that is properly the subject of a reply under Rule 22.5, although it is worthy of note that in its Counterstatement of the Questions Presented, Hughes puts Question 1 in terms of applying law of the case to grounds "previously asserted" rather than to things previously decided. This comes very close to being an admission that the Ninth Circuit never decided the issue of fraud on the Patent Office.

It seems desirable, however, and fully within the spirit of Rules 22.5 and 22.6 to apprise the Court that there is now pending in this Court a petition for certiorari, *Wilco Marsh Buggies and Draglines, Inc.* v. *Kori Corporation*, No. 85-266 (Petition filed August 16, 1985), in which review is sought of a decision of the Court of Appeals for the Federal Circuit reported at 761 F.2d 649. The Questions Presented by the *Wilco* petition are similar to those presented in this case. This shows that the proper application of the doctrine of law of the case is an issue of general importance and is not confined, as the Brief in Opposition suggests, to "the particular facts of this case." It also suggests that the Court may wish to defer consideration of this

petition until the *Wilco* petition is ripe for disposition, so that the Court may see the two cases together and be made aware of the full significance of the problem.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that three (3) true and accurate copies of the present Petitioner's Reply Brief have been transmitted to opposing counsel by first class mail on this ..... day of August, 1985.

.....

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